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REMARKS

Responsive to the Examiner's Action of September 1, 2005, Applicant has amended the claims to more clearly define the invention and request reconsideration over the rejection over the Myers, et al. patent in view of the Asbach et al. patent. The reading of the Myers patent on many of the elements of the present claims is believed to be accidental and the claims have now been amended to clearly distinguish all of the claims from the Myers et al. patent and further in view of the Asbach et al. patent.

The Myers et al. patent is a height adjustable swing for a child and is not an exercise apparatus for adults. The Myers et al. swing does have a generally U-shaped swing portion movably attached to the frame and having a seat thereon for swinging an infant. The Myers et al. pair of arms however having the handles are actually only a part of the U-shaped section supporting the swing seat and are mounted for telescoping to adjust the height of the seat. The reading of these elements on the present invention is believed to be accidental since the present U-shaped swing portion is totally separate from the pair of arms used for exercising the arms. This has now been clarified in the claims by spelling out that the arms are angularly adjustable about an axis and radially extend from one end portion of one generally U-shaped frame section to vary the

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angle or position of each arm relative to the U-shaped frame section. This clearly defines the claims over the Myers et al. patent as well as the Myers et al. in combination with the Asbach et al. patent.

The Asbach et al. patent is merely an adjustable child support structure and is not a swing and is not an exercise apparatus and does not have adjustable arms for an exercise apparatus, as set forth in the present invention. Furthermore, it would be unobvious to combine the Myers et al. patent and the Asbach et al. patent since Asbach does not adjust separate arms for swinging a swing nor adjust any arms for use in moving a swing in accordance with the present invention. Any combination of the Myers and Asbach patents would be unobvious to a person of ordinary skill in the art in the absence of any teaching reference or in the absence of any reason for adjusting the swinging arms of the Myers et al. patent. Even so, a combination would not teach the separate pair of arms which are angularly adjustable about an axis relative to one U-shaped frame section and which extend radially therefrom.

That is, the Myers et al. patent is a child's swing which has a frame with a pair of seat supporting arms suspended for swinging movement relative to the frame and has a seat mounted thereto. The support arms telescope so that the seat can be moved to vary the

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height of the seat. This broadly reads on the claim element of a separate U-shaped swing portion and moveable arms attached thereto but not when viewed in light of the specification of the present invention. The claims have been amended to clearly distinguish the Myers et al. patent from the present invention. The Myers support arms are supported in a motor housing supported on the frame so that the motor swings a child seated in the chair. The arms cannot be used to swing the child since the child swing is being actuated by the motor and the Myers et al. arms are merely part of the U-shaped portion for holding a child's seat. There is also no combination of Myers et al. and Asbach et al. that can produce an exercise apparatus as now set forth in the claims. As the claims now read, there is no equivalent in the Myers et al. patent for a way to angularly adjust the arms relative to the folding frame. Myers et al. is not an exercise apparatus but is a motor driven child's swing specifically designed to automatically swing a child and is not suitable for adding either a pair of arms for exercising the arms nor a leg exerciser attachment.

Applicant believes that the present invention with the claims as amended clearly defines over the prior references including the Myers et al. and the Asbach et al. patent and believes that the present invention would be unobvious to a person of ordinary skill

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in the art in view of the Myers and Asbach patents. Accordingly, reconsideration and allowance are respectfully requested.


Respectfully submitted,


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